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17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 Amrit Francis Jr.,

Case No.:

20 Plaintiff,

Complaint for damages under the
21 v.
22 FCRA, 15 U.S.C. § 1681

23 Equifax Information Services, LLC;
24 Backgroundchecks.com LLC; America
First Credit Union,

25 Defendants.

Introduction

1. The United States Congress has found the banking system is dependent up-on fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system. Congress enacted the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (“FCRA”), to ensure fair and accurate re-porting, promote efficiency in the banking system, and protect consumer privacy. The FCRA seeks to ensure consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy because consumer reporting agencies have assumed such a vital role in assembling and evaluating consumer credit and other information on consumers. The FCRA also imposes duties on the sources that provide credit information to credit reporting agencies, called “furnishers.”
2. The FCRA protects consumers through a tightly wound set of procedural protections from the material risk of harms that otherwise flow from inaccurate reporting. Thus, through the FCRA, Congress struck a balance between the credit industry’s desire to base credit decisions on accurate information, and consumers’ substantive right to protection from damage to reputation, shame, mortification, and the emotional distress that naturally follows from inaccurate reporting of a consumer’s fidelity to his or her financial obligations.
3. Amrit Francis Jr. (“Plaintiff”), by counsel, brings this action to challenge the actions of Equifax Information Services, LLC (“Equifax”); Backgroundchecks.com LLC (“BGS”); and America First Credit Union (“America First”) (jointly as “Defendants”), with regard to erroneous reports of derogatory credit information to national reporting agencies and Defendants’ failure to properly investigate Plaintiff’s disputes.

1 4. Plaintiff makes these allegations on information and belief, with the exception of
2 those allegations that pertain to Plaintiff, which Plaintiff alleges on personal
3 knowledge.

4 5. While many violations are described below with specificity, this Complaint
5 alleges violations of the statutes cited in their entirety.

6 6. Unless otherwise stated, all the conduct engaged in by Defendants took place in
7 Nevada.

8 7. Any violations by Defendants were knowing, willful, and intentional, and
9 Defendants did not maintain procedures reasonably adapted to avoid any such
10 violations.

11 8. Defendants failed to properly investigate Plaintiff's disputes, damaging Plaintiff's
12 creditworthiness.

13 **Jurisdiction and Venue**

14 9. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 (federal question
15 jurisdiction); 15 U.S.C. § 1681.

16 10. This action arises out of Defendants' violations of the FCRA.

17 11. Venue is proper in the United States District Court for the District of Nevada
18 pursuant to 28 U.S.C. § 1391(b) because Plaintiff is a resident of Clark County,
19 Nevada and because Defendants are subject to personal jurisdiction in Clark
20 County, Nevada as they conduct business here. Venue is also proper because the
21 conduct giving rise to this action occurred in Nevada. 28 U.S.C. § 1391(b)(2).

22 **Parties**

23 12. Plaintiff is a natural person living in Clark County, Nevada. In addition,
24 Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).

25 13. Defendants are each a corporation doing business in the State of Nevada.

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- 1 14. America First is a furnisher of information as contemplated by 15 U.S.C. §
- 2 1681s-2(b) that regularly and in the ordinary course of business furnishes
- 3 information to a consumer credit reporting agency.
- 4 15. Equifax and BGS regularly assemble and/or evaluate consumer credit
- 5 information for the purpose of furnishing consumer reports to third parties and
- 6 use interstate commerce to prepare and/or furnish the reports. These entities are
- 7 "consumer reporting agencies" as that term is defined by 15 U.S.C. §1681a(f).
- 8 16. Unless otherwise indicated, the use of Defendants' names in this Complaint
- 9 includes all agents, employees, officers, members, directors, heirs, successors,
- 10 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of
- 11 the named Defendants.

12 **Equifax and America First Misreported Consumer**
13 **Information and Failed to Investigate Plaintiff's Dispute**

- 14 17. In Plaintiff's consumer report from Equifax dated Jun 17, 2021, Equifax and
- 15 America First inaccurately reported America First (account ending: Unkown)
- 16 with a status of "Charged Off." In addition, Equifax and America First
- 17 inaccurately reported America First Credit Union account ending in (****1218)
- 18 with a status of "Charged Off." This was inaccurate, misleading, and derogatory
- 19 because Plaintiff filed for bankruptcy on Aug 2, 2019 and Plaintiff received a
- 20 discharge on Apr 14, 2021.
- 21 18. On Jun 17, 2021, Plaintiff disputed the inaccurate reporting pursuant to 15
- 22 U.S.C. § 1681i, by notifying Equifax, in writing, of the inaccurate, misleading,
- 23 and derogatory information.
- 24 19. Specifically, Plaintiff sent a letter, certified, return receipt, to Equifax,
- 25 requesting the above inaccurate information be updated, modified, or corrected.
- 26 20. Equifax was required to conduct a reinvestigation into the disputed information
- 27 on Plaintiff's consumer report pursuant to 15 U.S.C. §1681i.

- 1 21. Upon information and belief, Equifax timely notified America First regarding
- 2 Plaintiff's dispute, as required under 15 U.S.C. § 1681i(a)(2).
- 3 22. Upon information and belief, Equifax provided America First with a notice
- 4 regarding Plaintiff's dispute under 15 U.S.C. § 1681i(a)(5)(A).
- 5 23. Upon information and belief, Equifax provided all relevant information to
- 6 America First regarding Plaintiff's dispute, as required under 15 U.S.C. §
- 7 1681i(a)(2).
- 8 24. Plaintiff never received any notification from Equifax that Equifax and America
- 9 First investigated and reinvestigated Plaintiff's dispute, as required under 15
- 10 U.S.C. § 1681i(a)(6).
- 11 25. A reasonable investigation by Equifax and America First would have
- 12 determined that they were reporting the above disputed information
- 13 inaccurately.
- 14 26. Equifax and America First failed to review all relevant information provided
- 15 by Plaintiff in Plaintiff's dispute, as required by and in violation of 15 U.S.C. §
- 16 1681i and 15 U.S.C. § 1681s-2(b), respectively.
- 17 27. Upon information and belief, America First continued to report the inaccurate
- 18 information.
- 19 28. In turn, Equifax re-reported the inaccurate information, thus violating its duty to
- 20 follow reasonable procedures to assure maximum possible accuracy under 15
- 21 U.S.C. § 1681e(b) when preparing a consumer report.
- 22 29. Equifax and America First, upon receipt of Plaintiff's dispute, failed to conduct
- 23 a reasonable investigation and reinvestigation with respect to the disputed
- 24 information as required by 15 U.S.C. § 1681i and 15 U.S.C. § 1681s-2(b),
- 25 respectively.
- 26 30. Due to Equifax's and America First's failure to reasonably investigate, they
- 27 further failed to correct and update Plaintiff's information as required by 15

1 U.S.C. § 1681i and 15 U.S.C. § 1681s-2(b), thereby causing continued
2 reporting of inaccurate information in violation of 15 U.S.C. § 1681i and 15
3 U.S.C. § 1681s-2(b), respectively.

4 31. Equifax's and America First's continued inaccurate, misleading, and derogatory
5 reporting was knowing and willful, in light of their knowledge of the actual
6 error. Plaintiff is, accordingly, eligible for statutory damages.

7 32. Also as a result of Equifax's and America First's continued inaccurate,
8 misleading, and derogatory reporting, Plaintiff has suffered actual damages,
9 including without limitation, fear of credit denials, out-of-pocket expenses in
10 challenging the inaccurate reporting, damage to Plaintiff's creditworthiness, and
11 emotional distress.

12 33. By inaccurately reporting consumer information after notice and confirmation
13 of their errors, Equifax and America First failed to take the appropriate
14 measures as required under 15 U.S.C. § 1681i and 15 U.S.C. § 1681s-2(b),
15 respectively.

16 **Backgroundchecks Misreported Criminal History
17 in Plaintiff's Consumer Report**

18 34. In Plaintiff's consumer report from BGS dated Jun 29, 2021, BGS inaccurately
19 reported that Plaintiff had several criminal records, which was inaccurate,
20 misleading, and derogatory.

21 35. On or about Aug 23, 2021, Plaintiff disputed the inaccurate reporting pursuant
22 to 15 U.S.C. § 1681i(a)(2), by notifying BGS, in writing, of the inaccurate,
23 misleading, and derogatory information.

24 36. Specifically, Plaintiff sent a letter on Aug 23, 2021, certified, return receipt, to
25 BGS, requesting the above inaccurate information be corrected or removed.

26 37. On information and belief, upon receiving that letter, BGS was timely notified
27 of Plaintiff's dispute, but BGS continued reporting inaccurate information.

- 1 38. BGS was required to conduct an investigation into the disputed information on
- 2 Plaintiff's consumer report pursuant to 15 U.S.C. §1681i.
- 3 39. BGS failed to review all relevant information provided by Plaintiff in Plaintiff's
- 4 dispute, as required by and in violation of 15 U.S.C. § 1681i.
- 5 40. BGS continued to report and re-report the inaccurate information, thus violating
- 6 its duty to follow reasonable procedures to assure maximum possible accuracy
- 7 under 15 U.S.C. § 1681e(b) when preparing a consumer report.
- 8 41. BGS, upon receipt of Plaintiff's dispute, failed to conduct a reasonable
- 9 investigation as required by 15 U.S.C. § 1681i.
- 10 42. A reasonable investigation by BGS would have discovered that the information
- 11 it was reporting was inaccurate, misleading, and derogatory.
- 12 43. Due to the failure by BGS to reasonably investigate, it further failed to correct
- 13 and update Plaintiff's information as required by 15 U.S.C. § 1681i, thereby
- 14 causing continued reporting of inaccurate information in violation of the FCRA.
- 15 44. Plaintiff's continued efforts to correct the inaccurate, misleading, and
- 16 derogatory reporting by communicating Plaintiff's dispute with BGS were
- 17 fruitless.
- 18 45. BGS'S continued inaccurate and negative reporting was knowing and willful
- 19 because it had knowledge of the actual error. Plaintiff is, accordingly, eligible
- 20 for statutory damages.
- 21 46. Also as a result of the continued inaccurate, misleading, and derogatory
- 22 reporting by BGS, Plaintiff has suffered actual damages, including without
- 23 limitation, fear of credit denials, out-of-pocket expenses in challenging the
- 24 inaccurate reporting, damage to Plaintiff's creditworthiness and emotional
- 25 distress.
- 26 47. By reporting inaccurate consumer information after notice and confirmation of
- 27 its errors, BGS failed to take the appropriate measures as required under 15

1 U.S.C. §§ 1681i.

2 **Plaintiff's damages**

3 48. In addition to Plaintiff's creditworthiness being negatively impacted, Plaintiff
4 suffered emotional distress and mental anguish as a result of Defendants'
5 actions described herein. In addition, Plaintiff incurred out-of-pocket costs and
6 time in attempts to dispute Defendants' actions. Plaintiff further suffered
7 humiliation and embarrassment.

8 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**

9 **15 U.S.C. § 1681**

10 49. Plaintiff incorporates by reference all of the above paragraphs of this Complaint
11 as though fully stated herein.

12 50. The foregoing acts and omissions constitute numerous and multiple willful,
13 reckless, or negligent violations of the FCRA, including but not limited to each
14 and every one of the above-cited provisions of the FCRA, 15 U.S.C § 1681, et
15 seq.

16 51. As a result of each and every willful violation of the FCRA, Plaintiff is entitled
17 to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(1);
18 statutory damages pursuant to 15 U.S.C. § 1681n(a)(1); punitive damages as the
19 Court may allow pursuant to 15 U.S.C. § 1681n(a)(2); and reasonable attorney's
20 fees and costs pursuant to 15 U.S.C. § 1681n(a)(3) from Defendants.

21 52. As a result of each and every negligent noncompliance of the FCRA, Plaintiff is
22 entitled to actual damages as the Court may allow pursuant to 15 U.S.C. §
23 1681o(a)(1); and reasonable attorney's fees and costs pursuant to 15 U.S.C. §
24 1681o(a)(2) from Defendants.

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Prayer for relief

53. Plaintiff prays that judgment be entered against Defendants, and Plaintiff be awarded damages from Defendants, as follows:

- An award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
- An award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
- An award of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1); and
- Any other relief that this Court deems just and proper.

Jury Demand

54. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: May 16, 2022.

Respectfully submitted,

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